

MEMO ENDORSED

THE LAW OFFICE OF

ELISA HYMAN, P.C.

January 21, 2025

BY ECF

Hon. Valerie E. Caproni, United States District Judge
 United States District Court - Southern District of New York
 40 Foley Square
 New York, NY 10007

USDC SDNY
 DOCUMENT
 ELECTRONICALLY FILED
 DOC #: _____
 DATE FILED: 1/22/25

Re: *R.B.S. et al. v. New York City Dep't of Educ. et al.*, 24-cv-3549 (VEC)

Dear Judge Caproni:

I am counsel for the Plaintiffs in the above-referenced matter and write jointly with Defendants' counsel to provide an update on the status of this case and to respectfully request a stay of discovery.¹

After the Court held an initial conference in this matter on October 25, 2024, the Court entered a Case Management Plan ("CMP"), with fact discovery set to close February 24, 2025. ECF No. 18. A pre-trial conference is currently scheduled for February 28, 2025.

On December 6, 2024, Plaintiffs served Defendants with initial discovery demands. Plaintiffs agreed to an extension of time to respond to the discovery demands in January, 2025, when the parties renewed settlement discussions. At this time, the parties have reached a settlement in principle with respect to Plaintiffs' implementation claims. The parties still need to address Plaintiffs' claims for attorneys' fees. Plaintiffs provided Defendants with the billing records for the underlying administrative actions as well as the instant federal case on January 3, 2025.

As Your Honor may be aware, it is difficult for Plaintiffs to pursue discovery and settlement at the same time, due to the fee-shifting nature of the action. Accordingly, in order not to incur

¹ This action was filed by R.B.S., on behalf of herself and her six- year-old daughter, S.S., who has Noonan Syndrome, pursuant to the Individuals with Disabilities Education Act ("IDEA"), Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990 ("ADA"), and Section 1983. Complaint, ECF No. 1. The complaint raises the following categories of claims: (a) a partial appeal of an administrative decision of a New York State Review Officer ("SRO") concerning the 2023-2024 school year; (b) individual claims of discrimination and pursuant to Section 504 and the ADA; (c) systemic claims that could not be exhausted during the administrative process; (d) claims regarding the Defendants' alleged and ongoing failure to implement hearing orders; (e) Section 1983 claims concerning DOE's illegal policies and practices with respect to 1:1 instruction, SEIT, and VT, as well as Section 1983 claims with respect to Defendants' failure to train and supervise concerning the provision of FAPE and various services; and (f) claims for attorney's fees.

additional costs pursuing discovery, which is costly and time-consuming, and most likely unnecessary at this point, the parties respectfully request a joint stay of the CMP to allow time to negotiate the attorneys' fees aspect of the settlement. Our offices have successfully resolved via settlement all of our claims for attorneys' fees and we are thus optimistic that we will be able to do so here.

The parties respectfully request a stay of discovery and the CMP deadlines, and an adjournment of the court conference scheduled for February 28, 2025, while we finalize a settlement of this action. The parties propose the submission of status report no later than February 28, 2025. This is the parties' first request for a stay and adjournment of the court conference.

We thank the Court for its attention to this matter and consideration of the requests herein.

Respectfully submitted,

/s

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cc: All Counsel of Record, via ECF

Application GRANTED. Discovery in this case is STAYED. The post-fact discovery conference scheduled for February 28, 2025 at 10:00 A.M. is ADJOURNED *sine die*.

The parties must file a joint letter on the status of the settlement by February 28, 2025.

SO ORDERED. 1/22/25



HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE